IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2850 OF 2005

Nandini Bambardekar & Ors. ... Petitioner

Versus

Union of India and Ors. ... Respondents

Mr. R. Ramamurthy for Petitioner.

Mr. O.A. Dubey i/by Mr.S.S. Sarkar for Respondent No. 1.

Ms. S.I. Shah for Respondent No. 2.

Mr. S.R. Sharma for Respondent Nos. 3 and 4.

CORAM : F.I. REBELLO &
MRS ROSHAN DALVI.JJ.
DATED : DECEMBER 15, 2005

P.C.

. Rule. Heard forthwith.

. The Petitioners by the present petition, have prayed that the Petitioners are entitled to deemed seniority and promotion along with their batch-mates in the cadre of Architects. Further relief is to grant the Petitioners deemed seniority in the Architects cadre in the senior time scale and further promotions as Architect.

. From the records, it would be clear that the D.P.C. met on 15.7.1998 and considered 9 vacancies from the quota of deputy Architects for promotion to the grade of architect. Nine deputy architects were promoted. The Petitioners were not amongst them. Various proceedings by some others were taken out pertaining both to promotions as well as seniority. Pursuant to direction given, a Review D.P.C. was constituted. The Review D.P.C. met on 15.1.2004. In this review D.P.C. after re-assessing the number of vacancies, the Petitioners herein were also promoted. From Para 4 of the reply filed on behalf of the Respondents, it is clear that nine others selected were more meritorious. In other words, Petitioners cannot claim higher seniority to those nine.

. In the order dated 31.3.2004 which is the order of promotion, pursuant to review D.P.C the Petitioners are shown at Sr. Nos. 15, 16 and 19. In so far as they are concerned, no date of regular promotion is shown against their names. Whereas in

so far as all others are concerned, they have been given an effective date of regular promotion. In the order dated 31.3.2004, most of the persons promoted have been given the date of regular promotion as 24.11.1998 except two who have been shown as promoted on 15.12.1998 and 1.12.1998 and one on 27.11.1998. That being the case, at any rate, the Petitioners herein will not be in a position to claim higher date of seniority to those who were in the merit list at the time of first D.P.C. Consequently, they can be given deemed date of promotion which will be 15.12.1998. In so far as back wages are concerned, they are holding post on ad hoc basis and consequences of the order of promotion would be that they will be regularised from that date and paid all other consequential benefits. Their deemed date for the purpose of consideration for promotion will be 15.12.1998.

. The choice before the Court was either to remand the matter for the Review D.P.C. to issue fresh date or to exercise its extra ordinary jurisdiction. In the instant case, considering that the grievance of the Petitioner is right from

the year 1998 and several years have elapsed, and as the rights of those who were regularly promoted in the year 1998 is not being affected, we think it proper to exercise our extra ordinary jurisdiction and put an end to the litigation by giving the Petitioners deemed date of regular promotion as 15.12.1998.

. In the light of that the Petition is allowed and rule made absolute in above terms.

(F.I. REBELLO,J.)

(MRS. ROSHAN DALVI,J.)